

REMARKS

Claims 1, 2, 5 and 8-21 stand rejected under 35 USC 103(a) as being unpatentable over US patent no. 6,521,746 to Sand in view of US patent no. 6,651,099 to Dietz. Applicant respectfully traverses this rejection.

In Sand only very specific parameters get collected: delay information, packet-loss or jitter information, sequence numbers of the packets, timestamp information (see col. 6, lines 5-10). Furthermore the following is computed: speech level, noise, echo path delay, loss (see col. 6, lines 23-28).

Sand does not disclose that the number of packets will be counted. Furthermore, sand does not disclose that counted packets are transmitted in both directions of the transmission and to use these counted numbers for an arithmetical processing.

Sand clearly does not disclose or render obvious these elements of the claims. Sand merely discloses the timing of the packets or the evaluation order of the packets. For this, timestamps or sequence numbers, which are part of the packet, need to be read and evaluated. In contrast to the independent claims, the content of the packets do not need to be evaluated, only the mere occurrence of a packet needs to be recognized.

Furthermore, there is no motivation to combine Sand with Dietz. Applicant contends that Dietz would not be combined with Sand, because one of ordinary skill in the art would question the detailed processing mentioned as steps 1 to 11 (col. 5, line 55 to col. 6, line 34). In the last office action Examiner suggests that one of ordinary skill in the art would combine Sand and Dietz to perform analysis and measures on the network usage and performance. Applicant contends that this motivation is not appropriate, since Sand already defines which steps need to be performed (collecting parameters ... computed being based on the sequence number, timestamp, length information; see col. 6, lines 5-10). Therefore a person skilled in the art would not modify Sand with Dietz.

Independent claims 14-16 are allowable for reasons substantially similar to those discussed above.

New claims 22 and 23 are allowable over the cited prior art, since each is dependent from independent claim 1. Moreover, claims 22 and 23 further distinguish themselves over the cited prior art.

The Commissioner is hereby authorized to charge deposit account 02-1818 for any fees which are due and owing.

Respectfully submitted,

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